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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/081,928	02/20/2002	Isreal Hicks	HICKS-1-1002	2184

25315 7590 06/14/2005

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EXAMINER

CHAN, KO HUNG

ART UNIT	PAPER NUMBER
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3632

DATE MAILED: 06/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/081,928

Applicant(s)

HICKS, ISREAL

Examiner

Korie H. Chan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 3/29/2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21-47 is/are pending in the application.
- 4a) Of the above claim(s) 12-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 21-47 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Drawings

The drawings corrections filed on March 29, 2005 have been approved by the examiner.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 25, 29, 30-37, 39, 40, and 45-47 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for a hanger with articulation with overlapping parts as shown in figure 6, does not reasonably provide enablement for a hanger with articulation having end to end parts. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make or use the invention commensurate in scope with these claims. It is not clear how pivotable joint can be achieved with the pieces connected end to end as shown in figure 1. Indeed, a pivoting of one piece would necessarily rotate the piece out of the connected joint.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 21, 23-25, and 38-42 are rejected under 35 U.S.C. 102(b) as being anticipated by Starling et al (WO 00/55031). Starling discloses a tire hanger (120, figure 4) comprising a hoist

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wrap section (128) of U-shaped (130, 132, bolts 136 forms a U-shape) having an open end (between the bolts are opened spaces) partially circumscribing and arranged to removeably and slidably engage the horizontal support member (26, figure 5) of a vehicle hoist (22, figure 5); a tire hanging section (154) arranged to engage axle of a wheel; and a middle section (150, 156, figure 4) disposed between the hoist wrap section and the tire hanging section wherein the middle section having a length and having an articulated joint (146) , whereby the hoist wrap section is shaped so as to wrap around the horizontal support member of the vehicle hoist. Further, Starling's hoist wrap is inherently can be slidably positionable along the horizontal support member at a user-selected a location when the nuts are loosened. Starling also further discloses the pivot joint includes a bearing assembly, a pin (46, figure 2), and a frictional locking device (nut).

Claims 21-24, 26-28, 38, and 41-44 are rejected under 35 U.S.C. 102(b) as being anticipated by Kiss (US patent no. 4,759,091). Kiss discloses a hanger (7, figure 3) comprising a device having a first end U-shaped open end (7) supported on a horizontal member (1), a second end hook configuration (6, figure 3) inherently capable of engaging a wheel, and a middle section (the vertical portion) having a length wherein the weight of the article bearing upon the second end hook (6) is conveyed through the middle section to the first end to secure the first end at a selected position.

Regarding applicant's "tire hanger" where as stated in applicant's remarks that tire is not part of the claimed invention and applicant's intended usage language "arrange to", "configured to", or "for engaging", applicant is reminded that a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in

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order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In a claim drawn to a process of making, the intended use must result in a manipulative difference as compared to the prior art.

See *In re Casey*, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 136 USPQ 458, 459 (CCPA 1963). Kiss's hanger is capable of supporting a tire via its axle hole on a hoist.

Claims 21-47 are rejected under 35 U.S.C. 102(b) as being anticipated by Hansen (US patent no. 3,208,597). Hansen discloses a hanger (figure 1) comprising a hoist wrap section (39) of U-shaped (figure 1) having an open end partially circumscribing and arranged to removeably and slidably engage the horizontal support member (56, figure 6); a tire hanging section (15, figure 1); and a middle section (35, 36, figure 1) disposed between the hoist wrap section and the tire hanging section wherein the middle section having a length and having an articulated joint (42, 46) having bearing assembly being a pin (44) and friction locking device (wing nut 46) wherein the weight of the article bearing upon the hanging section is conveyed through the middle section to the U-shaped first end.

Regarding applicant's "tire hanger" where as stated in applicant's remarks that tire is not part of the claimed invention and applicant's intended usage language "configured to engage a vehicle hoist", Hansen's hanger is capable of supporting a tire via its axle hole. See above regarding recitation of intended use.

Response to Arguments

Applicant's arguments filed 3/29/2005 have been fully considered but they are not persuasive. Regarding Starling, applicant argues that Starling does not disclose open-ended hoist wrap section. Examiner respectfully disagree. Starling's device uses bolts between two

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plates. Indeed, the spaces between the bolts provides open spaces and any side of Starling's device that one chooses constitutes an open end (see figure 4). Applicant further argues that Starling does not disclose a middle section with a pivotable joint but rather the middle section of Starling is pivotably attached to the hoist wrap section. Where the middle section of Starling is located can be arbitrarily defined. Examiner defines the middle section (see figure 4) as trapezoidal end portion of plates 130, 132 with the pivotable joint and the piece 150. Indeed, a section is a mere portion of the hanger. Applicant's middle section was arbitrarily defined to have a pivot joint. It can also be say that applicant's middle section is pivotably attached to the hoist wrap section as well.

Examiner withdraws the indication that Starling does not show a U-shaped first end which is only recited in claims 28, 33, 36, and 40. The two plates (130, 132, figure 4) form the legs of a "U" and the rear two bolts (136) farthest from the pivot (146) form the bottom of the "U".

Applicant has specifically stated that "applicant did not invent and is not claiming the hoist, wheel, or axle." (page 14, last line of second paragraph) and examiner has treated the claims as such "not claiming the hoist, wheel, or axle".

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Korie H. Chan whose telephone number is 571-272-6816. The examiner can normally be reached on Mondays and Tuesdays.

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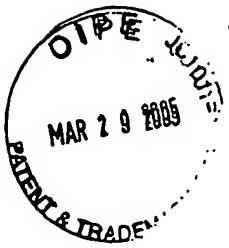
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leslie Braun can be reached at 571-272-6815. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Korie H. Chan
Primary Examiner
Art Unit 3632

Khc
June 8, 2005



approved *AMC* 6/8/05

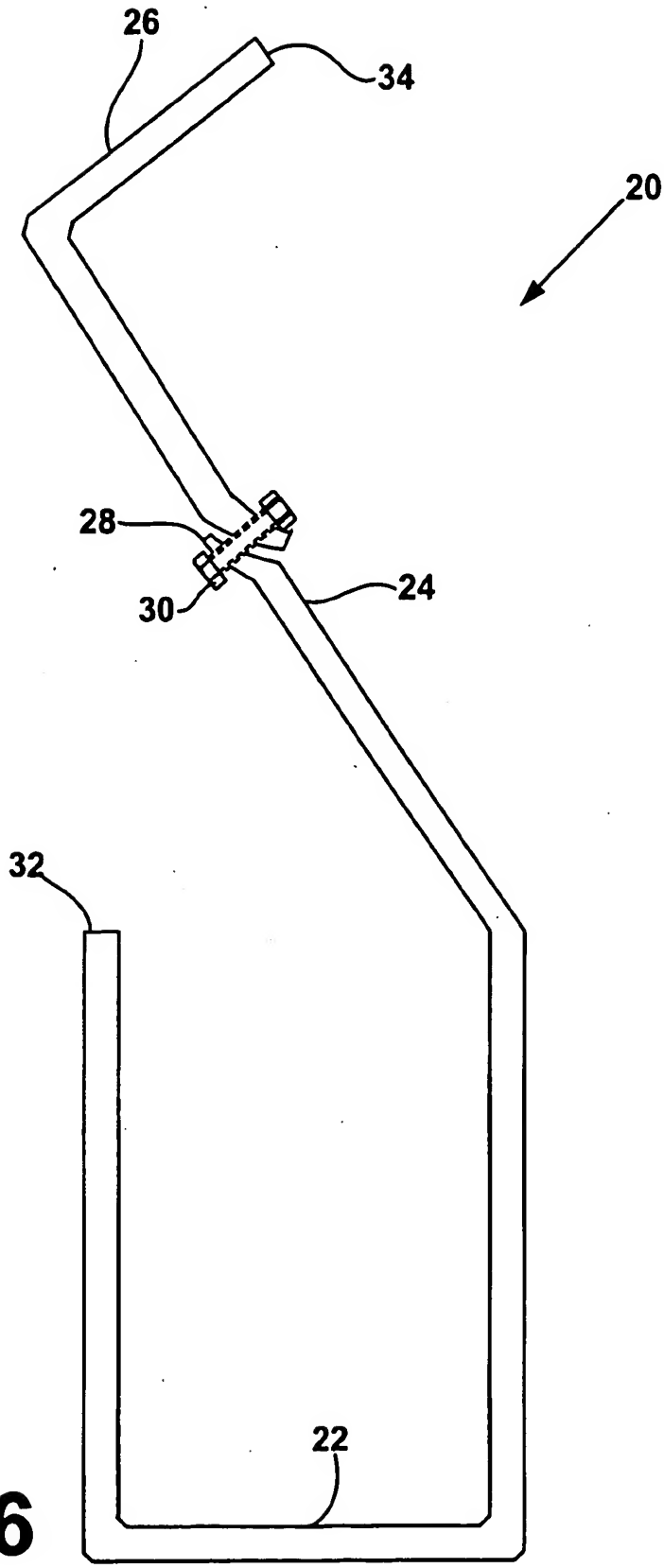


Fig. 6



Approved
KMC
6/8/05

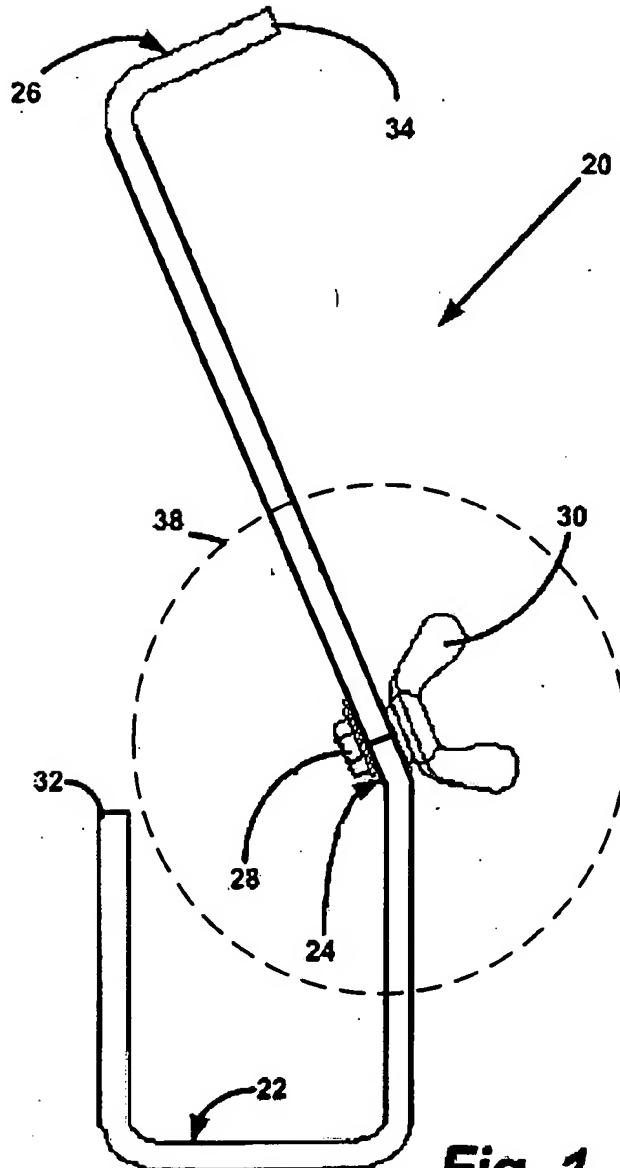


Fig. 1